

Attorney's Docket No.: 10559-371001/P10177

REMARKS

Reconsideration and allowance of the above-referenced application are respectfully requested. Claim amendments are presented herein to obviate the current rejection.

35 USC § 103

Claims 1-6, 9-15, 18-22, 25-29, and 31 stand rejected under 35 USC § 103(a) as allegedly being unpatentable over Deegan in view of Eitner. These contentions are respectfully traversed.

Claim 1 has been amended to recite: "determining upgrade information for a peripheral device installed in the network device, the upgrade information comprising a type and version of the peripheral device and an upgrade process for the peripheral device; determining if the update package is compatible with the peripheral device based on the upgrade information; and automatically upgrading internal software of the peripheral device if the upgrade package is compatible with the peripheral device by appending contents of the flash erase file to a packet header, the packet header containing instructions for the peripheral device for overwriting contents of software in the peripheral device with the appended contents, and by transferring the packet header and the upgrade software to the peripheral device by a connection" (for support, see, inter

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alia, specification, page 3, lines 5-15). Claims 9, 18, and 25 have been amended to include similar features.

Neither of Deegan and Eitner describes or suggests an arrangement that determines upgrade information comprising a type and version of a peripheral device and an upgrade process for the peripheral device and that determines whether the update package is compatible with the peripheral device based on the upgrade information.

Deegan describes a remote firmware provider takes "possession" of a local computer and establishes an Ethernet link directly into a communications daughterboard, for example, over the Internet (see, inter alia, Deegan col. 6, lines 22-29). In one variation, a user may access a website to download a firmware upgrade to the local computer (see, inter alia, Deegan col. 6, lines 29-36). However, Deegan does not suggest determining upgrade information and additionally determining if the update package is compatible with the peripheral device based on the upgrade information. Rather, Deegan describes various mechanisms for determining when new firmware is required such as by determining that the firmware is non-existent or corrupted, or whether a "hardware jumper" has been set (see, inter alia, Deegan col. 6, lines 59-67).

With Eitner, a loadpicker logic remaps a base address of each of two flash banks depending on which flash bank contains a

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valid and updated software subsystem (see, inter alia, Eitner col. 7, lines 35-37). After a software subsystem is upgraded, the two flash banks "essentially swap base address mapping values" which results in one flash bank being active and one flash bank being inactive (see, inter alia, Eitner, col. 7, lines 37-40). There is no suggestion that the loadpicker logic determines whether either of the software subsystems is compatible with a peripheral device. Therefore, Deegan in combination with Eitner fails to teach the subject matter recited in the claims.

Accordingly, claims 1, 9, 18, 25, and their respective dependent claims should be allowable.

Concluding Comments

It is believed that all of the pending claims have been addressed in this paper. However, failure to address a specific rejection, issue or comment, does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above are not intended to be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any

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claim does not necessarily signify concession of unpatentability
of the claim prior to its amendment.

A formal notice of allowance is respectfully requested.
Please apply any charges or credits to Deposit Account
No. 06-1050.

Respectfully submitted,

Date:

July 25, 2005

Scott C. Harris

Reg. No. 32,030

Attorney for Intel Corporation

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BING AI

REG. NO. 43,312

Fish & Richardson P.C.
PTO Customer Number: 20985
12390 El Camino Real
San Diego, CA 92130
Telephone: (858) 678-5070
Facsimile: (858) 678-5099
10529706.doc